

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
)	
UNITED STATES OF AMERICA)	
)	
v.)	No. 16-CR-10094-LTS
)	
ROSS MCLELLAN,)	
Defendant)	
_____)	

**DEFENDANT ROSS MCLELLAN’S MOTION FOR LEAVE TO FILE UNDER SEAL
AND PARTIALLY PROCEED *EX PARTE* ON HIS MOTION TO COMPEL
PRODUCTION OF DOCUMENTS PURSUANT TO RULE 17(c) SUBPOENA**

Defendant Ross McLellan, by and through undersigned counsel, hereby respectfully moves this Honorable Court for leave to file his Motion to Compel Production of Documents Related to the U.S. Insurance Company Transition under seal. Due to the uncertain scope of the applicable protective orders concerning documents and testimony received in discovery, Mr. McLellan, in an abundance of caution, respectfully requests this Honorable Court to allow him to file his Motion under seal.

Mr. McLellan additionally requests leave to partially proceed on an *ex parte* basis in order to prevent the unwarranted and premature disclosure of his trial strategy and trial preparation. If allowed to partially proceed *ex parte*, Mr. McLellan will serve a redacted Motion on the government and will provide the un-redacted originals to this Honorable Court. Courts have repeatedly held that a motion for Rule 17(c) subpoena may be submitted and considered on an *ex parte* basis where disclosure would: “divulge trial strategy . . . or attorney work-product” or “undermine a fundamental privacy or constitutional interest of the defendant.” *United States v. Beckford*, 964 F. Supp. 1010, 1030 (E.D. Va. 1997); *see also United States v. Clason*, 2007 WL 1259138 (D.

Ariz. 2007) (following *Beckford*); *United States. v. Johnson*, 2004 WL 877359 (E.D. La. 2004) (same); *United States v. Kanodia*, No. 15-CR-10131 (D. Mass. May 28, 2015), Dkt. 66 (allowing the defendant to proceed *ex parte* and under seal on his request for Rule 17(c) subpoenas). Consistent with these precedents, this Court has previously permitted Mr. McLellan to proceed partially *ex parte* in similar circumstances. Dkt. 233.

WHEREFORE, Mr. McLellan respectfully requests this Honorable Court to allow him to file his Motion to Compel under seal and grant him leave to partially proceed *ex parte*.

Local Rule 7.1(a)(2) Certification

The undersigned counsel conferred with counsel for the Government and the Government, by and through Stephen E. Frank, does not oppose Mr. McLellan's request to file under seal. Counsel further advised the Government of Mr. McLellan's intention to request leave to partially proceed *ex parte*, but the Government has not yet taken a position on that issue.

Respectfully submitted,

Ross McLellan
By his Attorney,

/s/ Martin G. Weinberg
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Dated: May 22, 2018

CERTIFICATE OF SERVICE

I, Martin G. Weinberg, hereby certify that on this date, May 22, 2018, a copy of the foregoing document has been served via Electronic Court Filing system on all registered participants.

/s/ Martin G. Weinberg
Martin G. Weinberg